

REMARKS

Claims 1, 2, 4, 5, 8, 11, 12 and 14 are currently pending in the application; claims 11, 12 and 14 being withdrawn from consideration; and claims 3, 6, 7, 9, 10 and 13 being previously cancelled. New claim 15 is presented herein. Claims 1 and 4 are in independent form.

The present application was filed on January 21, 2005, and included a preliminary amendment. The purpose of the preliminary amendment was to reflect claim amendments made in the corresponding PCT international application under Article 34. Dependent claim 7 was included in the claim amendments under PCT Article 34, but was inadvertently cancelled when preparing the preliminary amendment. New dependent claim 15 is presented herein which includes the features of dependent claim 7. In view of the foregoing, including the objective of having the claims of the instant application reflect all of the claim amendments under PCT Article 34, entry of this amendment under 37 CFR 1.312 is needed for complete and proper protection of the invention.

The requested amendment under 37 CFR 1.312 is believed to require no substantial amount of additional work on the part of the Examiner. The amendment includes only dependent claim 15 which is dependent on allowed claim 5 which, in turn, is dependent on allowed independent claim 4. The subject matter of dependent claim 15 is described at the following locations:

page 3, line 28 through page 4, line 9;
page 12, line 27 through page 13, line 6; and
page 15, line 25 through page 16, line 14

in connection with the embodiment of Figs. 1-8.

Thus, the two main requirements set forth in MPEP 714.16 for consideration of an amendment under 37 CFR 1.312 are believed to be met.

MPEP 714.16 further provides that the requirement under 37 CFR 1.111(c) that the patentable novelty of the claim be pointed out also applies to amendments under 37 CFR 1.312 as in ordinary amendments. Dependent claim 15 includes all the limitations of allowed claim 4 and also allowed claim 5. Thus, the patentable novelty of claims 4 and 5 by virtue of their

allowance is imparted to dependent claim 15, and the requirement of 37 CFR 1.111(c) therefore is believed to be satisfied.

MPEP 714.16 sets forth four inquiries which must be made and answered to the satisfaction of the Patent and Trademark Office in order to enter an amendment under 37 CFR 1.312. The first inquiry is why the amendment is needed. As pointed out above, this amendment requesting addition of dependent claim 15 is needed to reflect the PCT Article 34 claim amendments in all the claims of the instant application for complete and proper protection of the invention.

The second inquiry is why the proposed new claim requires no additional search or examination. This amendment requests addition of only dependent claim 15 which includes all the limitations of allowed claims 4 and 5. The portions of the specification which describe the subject matter of dependent claim 15 are identified above. Therefore, the second inquiry is met.

The third inquiry is why the claims are patentable. Dependent claim 15 includes all the limitations of allowed claim 4 and also allowed claim 5. Thus, the patentability of claims 4 and 5 by virtue of their allowance is imparted to dependent claim 15.

The fourth inquiry is why an amendment was not presented earlier. The error in preparation of the preliminary amendment was not discovered until a final review of the application was made after receiving the Notice of Allowance.

The following statement in MPEP 714.16 may be helpful for the Examiner in deciding to recommend entry of this amendment under 37 CFR 1.312:

Where claims added by amendment under 37 CFR 1.312 are all of the form of dependent claims, some of the usual reasons for nonentry are less likely to apply although questions of new matter, sufficiency of disclosure, or undue multiplicity of claims could arise.

This amendment under 37 CFR 1.312 requests addition of only a single dependent claim, i.e. dependent claim 15. There is no question of new matter because dependent claim 15 was included in the original application as filed (numbered as claim 7) before it was inadvertently cancelled by the preliminary amendment. There is no question of sufficiency of disclosure - the portions of the specification which describe the subject matter of dependent claim 15 are

identified above. There is no undue multiplicity of claims. No other claim in the instant application recites subject matter similar to that set forth in dependent claim 15.

Therefore, entry of this amendment under 37 CFR 1.312 is respectfully requested. The present application is thought to be in condition for allowance. If the Examiner has any questions or concerns, the Examiner is invited to contact the undersigned.

If any fees are occasioned by this paper, the Director is hereby authorized to charge Deposit Account No. 08-2442 of the undersigned.

Respectfully submitted,
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Date: November 6, 2007

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